

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF JULY 16, 2003

A meeting of the New York State Racing and Wagering Board was held on Wednesday, July 16, 2003 at 11:30 a.m. at the Racing & Wagering Board's Albany Office located at 1 Watervliet Avenue Extension, Albany, New York.

The meeting was called to order at 11:30 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Ed Martin, Executive Director

Sheila Osterhout, Secretary to the Board

Robert Feuerstein, General Counsel

Tom Casaregola, Director of Audits & Investigations

Joe Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Francesca Pizzimenti, NYSR&WB

Jeff Katt, NYSR&WB

Joe Wollman, NYSR&WB

Heather Bennett, The Bennett Firm, Inc.

Betty Flood, Cuyler News

Paul D'Onofrio, Monticello Raceway

Cliff Ehrlich, Monticello Raceway

Charles Coppola, Coppola Ryan & McHugh

Heather Mowat, NYS Senate Finance

Bill Crowell, Hinman Straub

Tom Precious, Buffalo News/Blood Horse

Amy Clinton, The Bennett Firm, Inc.

Shirin Parsavand, Daily Gazette

Richard Friedlander

Jason Wheatley, NYS Senate

Jim Odatto, Times Union

Steve Bochnak, NYS Assembly

OPEN COMMENT PERIOD: Richard Friedlander addressed the Board concerning the Board's requirement that tracks obtain identification from individuals using Tiny Tims (automated wagering devices). Mr. Friedlander stated his belief that this practice violates the privacy of the bettors and discriminates against persons physically present at the race track.

A. The Board approved the minutes of the Board meeting held on June 18, 2003 and June 25, 2003.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. FINGER LAKES REQUEST TO CANCEL LIVE RACING □ 5/28/03

For entry into the minutes, on May 15, 2003, approval was granted for the request by Finger Lakes to amend its plan of operation enabling the cancellation of the scheduled and approved racing date of Wednesday, May 28, 2003.

2. FINGER LAKES REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on June 19, 2003, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the export of simulcast signals to US Off-Track and Euro Off-Track.

These contracts are approved with the provision that the residents of New York State will not be able to wager on these simulcast with either out-of state entity as outlined in Appendix A of the contract.

* For entry into the minutes, on July 3, 2003, approval was granted for the request for an amendment to the Finger Lake simulcast plan of operation with the approval to an existing contract with the Atlantic City Casino Association. This addendum enables the export of the Finger Lakes simulcast signal to the contiguous state of New Jersey to The Borgata Hotel, Casino and Spa.

This approval is effective immediately.

3. FINGER LAKES REQUEST TO OFFER PROMOTIONS

For entry into the minutes, on June 19, 2003, approval was granted for the request by Finger Lakes to conduct a drawing in conjunction with a promotion with Coca-Cola on Sunday, July 6th whereby a customer has the chance to win, by random drawing, five hundred dollars (\$500.00) per the submitted rules.

Also approved are the Finger Lakes "P T Cruiser" giveaway on Saturday, July 26th and the "Cash Cube" promotion on Monday, September 1st (Labor Day) per the submitted rules.

The promotion as presented for "Coca-Cola Tee Shirt Giveaway", WBEE Country Fest", "Old Fashioned Day", SEABISCUIT Bobblehead Giveaway and the Finger Lakes "Family Fun Day" are acknowledged and do not require the approval of the Racing and Wagering Board.

4. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on June 19, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from River Downs during the calendar year 2003.

This simulcast may be utilized whenever applicable under the Racing Law.

* For entry into the minutes, on June 19, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Thistledown Race Track in Ohio during the calendar year 2003.

This simulcast may be utilized whenever applicable under the Racing Law.

5. YONKERS RACEWAY REQUEST TO CANCEL LIVE RACING - JUNE

For entry into the minutes, on June 19, 2003, approval was granted for the request by Yonkers Raceway to amend its plan of operation enabling the cancellations of the four scheduled Thursday live racing programs during the month of June 2003.

The resumption of Thursday live programs will begin again on July 3rd.

6. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on June 19, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of harness simulcasts from Rockingham Park in Salem, New Hampshire throughout the remainder of its year 2003 live race meeting.

7. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on June 19, 2003, approval was granted for the request by Nassau Regional OTB, dated June 9, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Sam Houston Park in Texas during their 2003 race meeting.

This approval to import the Sam Houston Park simulcasts also applies to Suffolk Regional OTB. This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on July 3, 2003, approval was granted for the request by Nassau Regional OTB, dated May 19, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Remington Park in Oklahoma, Australian International Racing from Australia-Wyvern and the Charles Town Races during the 2003 race meeting.

These approvals also extend to Suffolk Regional OTB. These simulcasts may be imported and utilized whenever in accordance with the Racing Law.

8. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on July 3, 2003, approval was granted for the request by Saratoga Raceway to amend the simulcast plan of operation enabling the import of simulcast signals from the thoroughbred racetracks known as Mountaineer Park in West Virginia and Delaware Park in Delaware.

Also approved is the agreement with the harness racetrack, Rockingham Park in New Hampshire.

9. WESTERN OTB/BATAVIA DOWNS REQUEST TO AMEND WAGERING FORMAT

For entry into the minutes, on July 3, 2003, approval was granted for the request by Batavia Downs to amend its plan of operation to conduct the pick-four wager on the final four races on each racing program presented.

Also approved is the request to move the late double wager to races nine and ten. This approval is effective immediately.

C. ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE BOARD

1. IN THE MATTER OF LEO BARRY

For entry into the minutes, on July 2, 2003, the Board approved the Summary Suspension of the thoroughbred groom license of Leo Barry upon a finding that the public safety and welfare imperatively require this emergency action. The suspension will remain in effect pending further disposition by the Board after a hearing.

D. ITEMS TO BE APPROVED, DENIED OR DEFERRED BY THE BOARD

1. IN THE MATTER OF JOSE J. GUTIERREZ, JHONNY DIAZ & JOSE FLORES (a/k/a RICARDO RODRIGUES)

The Board approved Hearing Officer Baller's recommendation that the thoroughbred licenses of Flores, Diaz and Gutierrez be revoked based upon charges asserted to establish violation of Board Rules 4002.9 in that the character and fitness of each are such that their continued participation in pari-mutuel racing would be inconsistent with the public interest, convenience and necessity, or with the best interests of racing generally.

2. IN THE MATTER OF HARRY E. HINKLEY

The Board approved Hearing Officer Baller's recommendation that the harness racing license of security guard Harry E. Hinkley be revoked pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Section 309 in that his character and fitness is such that his continued participation in pari-mutuel racing would be inconsistent with the public interest, convenience and necessity, or with the best interests of racing generally.

3. IN THE MATTER OF KIRT RICHARD SUPIRO

The Board approved Hearing Officer Baller's recommendation that the certification of Oneida Nation casino gaming employee, Kirt Richard Supiro to participate in gaming activities be revoked, pursuant to Section 6 of the Nation-State Compact, based upon his conviction for a felony.

4. DESIGNATION OF ATTORNEY - WOLLMAN

The Board approved the designation of Joseph D. Wollman, Assistant Counsel, pursuant to Section 101(9) of the Racing, Pari-Mutuel Wagering and Breeding Law to administer oaths, examine witnesses and issue subpoenas to compel attendance and for the production of documents.

5. RULE MAKING PROPOSAL □ HARNESS RULES □ PARTS 4103, 4104, 4105 & 4115

The Board approved the proposed amendments to harness rule Parts 4103 (Programs), 4104 (Paddock), 4105 (Officials of Race Meetings), and 4115 (Starter and Starting).

The proposals will be submitted to the Governor's Office of Regulatory Reform with Notice of Intent to Propose and other required submissions.

6. RULE MAKING PROPOSAL □ THOROUGHBRED RULES - PARTS 4005 & 4007

The Board approve the proposed amendments to thoroughbred rule Parts 4005 (Association Employees) and Part 4007 (Horses).

The proposals will be submitted to the Governor's Office of Regulatory Reform with Notice of Intent to Propose and other required submissions.

7. RULE MAKING □ WITHDRAWAL OF PREVIOUSLY APPROVED GENERIC MEDICATION RULE MAKING PROPOSAL (4043.2 & 4120.2)

The Board approved the withdrawal of the Notice of Intent to Propose, as submitted to GORR in August 2002, to replace the existing harness and thoroughbred substantive medication rules with a simple mechanism for modification of the rule on a periodic basis.

8. RULE □ REPEAL OF BOARD RULE 5400.1(i) □ FOIL APPLICATION NOTICE PROVISION

The Board approved the proposal to repeal 5400.1(i) of the Board's rules, which requires that whenever a person or entity is required to submit a record to the Board, the person or entity shall be notified of a request to inspect or copy the record so that the person or entity may have an opportunity to protest the inspection or copying pursuant to the exemption provisions of FOIL.

9. FIVE YEAR RULE REVIEW □ PUBLICATION IN STATE REGISTER

The Board approved the continuation of those rules promulgated by the Board in 1998, and currently in existence. These rules were published for public comment, pursuant to the 5-year rule review procedures set forth in the State Administrative Procedure Act.

10. MONTICELLO RACEWAY TRACK LICENSE APPLICATION FOR 2003

The Board approved the Monticello Raceway 2003 track and simulcast license applications through the end of the calendar year.

The licenses are issued contingent upon compliance with the following conditions:

- Conditioning the continued use of Hitachi's, bet mates or other similar devices by providing that no cancellations are allowed to be placed on them.
- Limiting the issuance/use of Hitachi's, bet mates or other similar devices to one per person/betting interest.
- Eliminating any cancellation delay □ no cancellations after the start of the race.

- The name, address, social security number and date of birth must be obtained from each individual who opens a day account (temporary wagering account) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

11. MONTICELLO RACEWAY SIMULCAST LICENSE APPLICATION FOR 2003

See Board item number 10 above.

12. NYRA REQUEST FOR ANNEXED PROPERTIES AT SARATOGA

The Board approved the issuance of waivers to allow for the annexation of six properties to be construed as NYRA on-track premises during the current year 2003 Saratoga racing season only. The annexation of these properties permits official examining veterinarian to conduct pre-race examinations, the Thoroughbred Racing and Protective Bureau to perform tattooing and other horse identification services, and also permits the administration of race-day furosemide to horses that are part of the lasix program.

The six properties are Robert McNair's Stonerside North □ Mott Thoroughbred Stable, Inc., Payson Racing Stable, Lambholm, H. James Bond Racing Stable, Saratoga Equine Veterinary Service, and the Edward Miller Stables.

13. NYRA REQUEST TO APPOINT BOARD OF TRUSTEE MEMBER - JARVIS

The Board approved the appointment to the NYRA Board of Trustees of Michael D. Jarvis. Mr. Jarvis will be replacing Paul F. Oreffice who in turn will become a "trustee emeritus".

14. NYRA REQUEST TO OFFER PROMOTION □ MYSTERY VOUCHER

This request was withdrawn by NYRA.

15. CAPITAL OTB REQUEST FOR APPROVAL OF NEW BOARD OF DIRECTOR - QUINTAL

The Board approved the appointment of a new member of the Capital OTB Board of Directors, Jerold O. Quintal. Mr. Quintal will replace John O'Neill of Warren County.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE □ BINGO REGISTRATION NUMBERS □ JUNE/JULY □ 07/03-08-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between June 7, 2003 □ July 2, 2003.

2. GAMES OF CHANCE □ BELL JAR TICKETS □ JUNE/JULY □ 07/03-07-E

List of bell jar ticket authorized/denied by the Charitable Gaming Unit between June 7, 2003 □ July 2, 2003.

3. GAMES OF CHANCE LICENSED BINGO & GAMES OF CHANCE SUPPLIERS JUNE/JULY - 07/03-09-E

List of manufacturers/suppliers licensed for 2003, by the Charitable Gaming Unit, between June 7, 2003 □ July 2, 2003.

4. INDIAN GAMING LICENSING STATISTICS □ JUNE 2003 - 07/03-03-E

Licensing statistics for June 1, 2003 through June 30, 2003. Also included are the certifications for Turning Stone, Akwesasne and Seneca Niagara.

5. LICENSING □ CURRENT RACING LICENSING COUNT AS OF JULY 2003 - 07/03-02-E

The current racing licensing counts as of July 8, 2003 are as follows: total receipts 7624 and total licenses 5617.

6. BATAVIA DOWNS ANNUAL CIF INSPECTION □ 07/03-05-E

On May 28, 2003 staff conducted their annual capital improvement inspection at Batavia Downs.

7. BUFFALO RACEWAY ANNUAL CIF INSPECTION □ 07/03-06-E

On May 28, 2003 staff conducted their annual capital improvement inspection at Buffalo Raceway.

8. FINGER LAKES ANNUAL CIF INSPECTION □ 07/03-04-E

On May 29, 2003 staff conducted their annual capital improvement inspection at Finger Lakes.

9. NYJICF ANNUAL DESK REVIEW □ 06/03-28-E

Staff completed a desk review of the New York Jockey Injury Compensation Fund, Inc. 2002 audited financial statements.

10. INTERIM UNIFORM MINIMUM INTERNAL CONTROL STANDARDS FOR MYSTERY VOUCHER PROMOTIONS - 07/03-20-E

In an effort to avoid problems with racing related voucher promotional programs conducted by regulated entities, Board staff has developed the following guidelines for entities to follow when developing and planning such promotions.

The meeting was adjourned at 12:26 p.m.